

MDR Tracking Number: M5-04-2422-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on April 2, 2004. Per Rule 133.307(d)(1) dates of service 01/28/03 through 03/24/03 were submitted untimely and outside the jurisdiction of MDR.

The IRO reviewed CPT Codes 97265, 97250, 97022, 97014/G0283, 98940, 97124, 99214, and 97032 for dates of service 04/15/03 through 11/04/03 that was denied based upon "V".

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

It was determined by the IRO reviewer that the chiropractic manipulative therapies for dates of service 04/15/03 through 11/04/03 and the office visit performed on 11/04/03 **were** found to be medically necessary. All remaining services and procedures for dates of service 04/15/03 through 11/04/03 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for CPT Codes 97265, 97250, 97022, 97014/G0283, 98940, 97124, 99214, and 97032.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved.

On July 23, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

On November 3, 2004 the requestor's representative was contacted to confirm if any payments for the fee issues was made. It was confirmed that office visits for dates of service 04/04/03, 04/15/03, 06/25/03, 08/22/03, 08/28/03, 09/09/03 and 10/03/03 were paid and no longer in dispute.

- CPT Code 97110 (2 units) for date of service 10/03/03. EOBs were not submitted by either party; therefore, this code will be review in accordance with TWCC rules. Consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. Reimbursement is not recommended.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees outlined above as follows:

- in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003;
- in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

This Order is applicable to dates of service 04/15/03 through 11/04/03 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 4th day of November, 2004

Marguerite Foster
Medical Dispute Resolution Officer
Medical Review Division

MF/mf
Enclosure: IRO decision

NOTICE OF INDEPENDENT REVIEW DECISION

June 17, 2004

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: Injured Worker:
MDR Tracking #: M5-04-2422-01
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in Chiropractic Medicine. TMF's health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to TMF for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This patient sustained a work-related injury on ____ when he rolled a cement truck that he was driving and sustained multiple injuries. The thoracic and cervical spine x-rays performed on ____ revealed no acute changes and the CT scan of the head performed on the same date also revealed no acute changes. An MRI of the cervical spine performed on 07/29/02 revealed a right foraminal narrowing at C3-4 and C4-5. An MRI of the right shoulder revealed no evidence of a rotator cuff or labral tears, incidental findings of mild AC arthrosis was noted. The patient was under the care of a chiropractor.

Requested Service(s)

Joint mobilization, myofascial release, application of modalities, electrical stimulation (unattended), chiropractic manipulative treatment, massage therapy, office visit (exclude dates 04/15/03, 04/24/03, 06/25/03, 07/16/03, 08/05/03, 08/22/03, 08/28/03, 09/09/03, 10/03/03) and electrical stimulation from 04/15/03 through 11/04/03

Decision

It is determined that the chiropractic manipulative therapies from 04/15/03 through 11/04/03 and the office visit for reevaluation performed on 11/04/03 were medical necessary. All remaining services and procedures within the specified date range are not medically necessary

Rationale/Basis for Decision

This patient was seen on multiple occasions by designated doctors who all agreed that the patient was not at maximum medical improvement during the time frame in question. Therefore, both the diagnosis and the documentation supplied in this case supported the medical necessity of chiropractic manipulations and periodic reevaluations by the treating doctor.

The joint mobilization procedure is a component of chiropractic spinal manipulation and as such the medical necessity of performing this duplicative service on the same encounter when the other procedure was performed was not supported. The passive modalities, the unattended and attended electrical stimulation, myofascial release, massage and whirlpool may have been helpful post-injection. However, the one epidural steroid injection (ESI) was performed on 02/24/03 and the beginning date for these challenged services was 04/15/03, which is a full 8 weeks from the procedure.

Expectations for physical medicine should show an increase in the active regimen of care and a decrease in the passive regimen of care with a decline in the frequency of care; should be initiated near the beginning of care, include ongoing assessments of compliance and result in fading treatment frequency; should include a formal assessment of the patient with reassessment periodically to see if the patient is moving in a positive direction in order for the treatment to continue; should furnish supporting documentation for additional treatment when exceptional factors or extenuating circumstances are present; and should

establish reasonable evidence of objective functional improvement and medical necessity of treatment. These criteria were not met, so the performance of these passive modalities longer than eight weeks post-injection without documentation of flare-ups is not medically necessary.

Sincerely,

Gordon B. Strom, Jr., MD
Director of Medical Assessment

GBS:dm